

NEW APPLICATION



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BEFORE THE ARIZONA CORPORATION COMMISSION: 47

COMMISSIONERS

MARC SPITZER, Chairman
WILLIAM A. MUNDELL
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KRISTIN K. MAYES

AZ CORP COMMISSION
DOCUMENT CONTROL

In the matter of:
MEE DIAMOND & JEWELRY, INC., an
Arizona corporation
2550 E. Denton Lane
Phoenix, AZ 85016
CHRISTOPHER S. MEE, an unmarried man
2550 E. Denton Lane
Phoenix, AZ 85016
Respondents.

DOCKET NO. S-03556A-04-0000

NOTICE OF OPPORTUNITY FOR
HEARING REGARDING PROPOSED
ORDER TO CEASE AND DESIST,
ORDER FOR RESTITUTION, FOR
ADMINISTRATIVE PENALTIES, AND
FOR OTHER AFFIRMATIVE ACTION

NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING

EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission
("Commission") alleges that RESPONDENTS, MEE DIAMOND & JEWELRY, INC., an Arizona
corporation, dba DIAMOND SHOWCASE and CHRISTOPHER S. MEE have engaged in acts,
practices and transactions, which constitute violations of the Securities Act of Arizona, A.R.S. § 44-
1801 et seq. ("Securities Act").

I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona
Constitution and the Securities Act.

Arizona Corporation Commission

DOCKETED

MAR 24 2004

DOCKETED BY [Signature]

1 **II.**

2 **RESPONDENTS**

3 2. MEE DIAMOND & JEWELRY, INC., an Arizona corporation, dba DIAMOND
4 SHOWCASE is an entity which began operations in 2001 as a sole proprietorship and was
5 subsequently incorporated on April 12, 2002 ("MEE DIAMOND"). The RESPONDENTS represent
6 MEE DIAMOND to be a retailer, wholesaler and e-commerce marketer of diamonds and jewelry.
7 The last known business address of MEE DIAMOND is 2550 E. Denton Lane, Phoenix, AZ 85016.

8 3. CHRISTOPER S. MEE ("MEE") is an unmarried individual whose last known business
9 address is 2550 E. Denton Lane, Phoenix, AZ 85016.

10 4. At all times material hereto, MEE was a resident of the state of Arizona. MEE did acts
11 within or from Arizona out of which the claims in this action arose. MEE was not registered to sell
12 securities within or from the state of Arizona.

13 5. MEE DIAMOND and MEE may be collectively referred to as "RESPONDENTS."

14 **III.**

15 **FACTS**

16 6. Each of the preceding paragraphs is incorporated herein by reference.

17 7. Since at least July, 2002, RESPONDENTS have been directly or indirectly engaged in the
18 offer and sale of securities as defined by A.R.S. §44-1801(26) to the general public in Arizona.

19 8. At all times material hereto, MEE was the president, chief financial officer and control
20 person of MEE DIAMOND. In these capacities, MEE controls and bears responsibility for the
21 company's financial affairs and investor solicitation activities.

22 9. Arizona residents were solicited by the RESPONDENTS through radio advertisements and
23 general unsolicited mailings concerning various investment opportunities in MEE DIAMOND.

1 10. As part of the solicitation efforts, RESPONDENTS prepared, supported, procured and/or
2 dispatched various summaries to prospective investors outlining the business plans and the terms of
3 the MEE DIAMOND investment options.

4 11. According to offering materials, the RESPONDENTS were directly or indirectly seeking to
5 raise (i) \$1 million through the sale of "Series 1 and 2 nonvoting preferred redeemable stock" in
6 MEE DIAMOND for a purchase price of \$1.00 per share (with a minimum investment ranging from
7 \$10,000 to \$25,000), (ii) \$1 million through the sale of "investment contracts" by which the investors
8 would "purchase one or more diamonds [at the company's cost] and then immediately consign the
9 diamonds back to the company for sale" pursuant to the terms of a "Diamond Consignment Program
10 Agreement" executed by the company and the investor (with a \$50,000 minimum investment),
11 and/or (iii) an undisclosed amount through inventory financing with a \$25, 000 investment.

12 12. In what was termed a private placement offering dated November 26, 2002 (the "POM"), the
13 RESPONDENTS represented that the offering was being made pursuant to registration exemptions
14 under "Section 4(2) of the federal Securities Act of 1933" and "comparable exemptions under state
15 law."

16 13. In response to a general solicitation by the RESPONDENTS, an investor arranged to meet
17 with MEE. During this meeting, and at various times subsequent thereto, MEE represented to the
18 investor, among other things, that: (i) he owned a successful call center in California; (ii) he was
19 involved with a successful energy company; (iii) he had been operating his local jewelry business
20 for ten years; (iv) in addition to the Arizona location, he operated a successful jewelry business in
21 Pennsylvania; and (v) that MEE DIAMOND was in satisfactory financial condition. In fact, these
22 statements were misleading and/or untrue.

23 14. The POM represented that MEE had a solid background and vast experience in the
24 industry to successfully manage the business venture, and that the company was substantially
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1 dependent on his personal efforts and abilities. In fact, this statement was misleading and/or
2 untrue.

3 15. Neither the POM nor MEE, however, disclosed that MEE (and his Pennsylvania-based
4 company, Boston-Finney, Inc.) was subject to: (i) an order entered on August 21, 1998 in cause
5 number 717631 in the Superior Court of the State of California, County of San Diego, for
6 violations of that state's Penal Code section 327, permanently enjoining the further use of
7 misleading and false statements [fraud], to prevent the use of an endless chain [pyramid]
8 marketing scheme in the sale of electric power, and for the payment of restitution and penalties;
9 and (ii) an order entered on or about June 16, 1998 in cause number 183 M.D. 1998 in the
10 Commonwealth Court of Pennsylvania for violations of that state's Unfair Trade Practices and
11 Consumer Protection Law, permanently enjoining any further use of misleading and false
12 statements [fraud], to prevent the use of an endless chain [pyramid] marketing scheme in the resale
13 of electric generation, natural gas supply, and energy conservation technologies, products and
14 services, and for the payment of restitution and penalties (collectively, "Orders").

15 16. According to the POM, thirty percent (30%) of the proceeds from the sale of Preferred
16 Stock was to be used for certain specified operating costs only and the remaining seventy percent
17 (70%) were to be used to increase the inventory of diamonds available to MEE DIAMOND for
18 sale. In fact, said funds have been utilized for business expenses other than those delineated in the
19 POM and for personal expenses of MEE.

20 17. On February 21, 2003, MEE DIAMOND filed a *Form D, Notice of Sale of Securities*
21 *Pursuant to Regulation D, Section 4(6) and/or Uniform Limited Offering Exemption* (the "Form
22 D") with the Securities Division¹ pursuant to A.C.C. R14-4-140 ("Rule 140") (i.e., limited
23 offerings and sales not exceeding \$1 million exclusively to accredited investors). The Form D stated
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26 ¹ Issuers must file a copy of Form D within 15 calendar days after the first sale within or from Arizona, a consent to service of process, a copy of the general announcement of the offering, and the filing fee. A.A.C. R14-4-140(L).

1 that the filing was under federal Rule 504. The Form D was executed by MEE as President of
2 MEE DIAMOND.

3 18. While the POM and MEE disclosed that MEE DIAMOND was a new company and that
4 principal operations had commenced, neither the POM nor MEE disclosed that no significant
5 revenue had been derived from such operations. As a result, MEE DIAMOND is considered to be
6 in the development stage.² Under federal Rule 504, the issuer [MEE DIAMOND] may not be a
7 development stage company.

8 19. The Form D contains a sworn statement by MEE that he is "not subject to the
9 disqualification provisions" described in 17 C.F.R. 230.262 (the "bad boy provisions"). The offer
10 and sale by an issuer in compliance with federal Rule 504 shall be exempt from the registration
11 requirements of A.R.S. §§44-1841 and 44-1842 subject to the provisions of Rule 140(M) (the "bad
12 boy provisions"). As a result of the entry of the Orders, MEE was subject to the bad boy
13 provisions at the time of the filing of the Form D. Therefore, the exemption from the registration
14 requirements of A.R.S. §§ 44-1841 and 44-1842 was not available to MEE DIAMOND.

15 20. The offer and sale of securities by the RESPONDENTS failed to comply with federal Rule
16 504. As a result, the exemption from the registration requirements of A.R.S. §§ 44-1841 and 44-
17 1842 provided under Rule 140 was not available to the RESPONDENTS.

18 21. At least Twenty-five Thousand Dollars (\$25,000.00) in investor funds has been raised from
19 investors from Arizona from the offer and sale of preferred stock in MEE DIAMOND by the
20 RESPONDENTS.

21 IV.

22 VIOLATION OF A.R.S. § 44-1841

23 (Offer or Sale of Unregistered Securities)

24 22. Each of the preceding paragraphs is incorporated herein by reference.
25

26 ² Definition of Terms Used in Regulations S-X, 17 C.F.R. §210.1-02(h).

1 23. From July 2002, RESPONDENTS offered or sold securities in the form of stock and
2 investment contracts within or from Arizona.

3 24. The securities referred to above were neither registered nor exempt from registration pursuant
4 to the provisions of Articles 6 or 7 of the Securities Act.

5 25. This conduct violates A.R.S. § 44-1841.

6 **V.**

7 **VIOLATION OF A.R.S. § 44-1842**

8 **(Transactions by Unregistered Dealers or Salesmen)**

9 26. Each of the preceding paragraphs is incorporated herein by reference.

10 27. RESPONDENTS offered or sold securities within or from Arizona, while neither registered
11 as dealers or salesmen nor exempt from registration pursuant to the provisions of Article 9 of the
12 Securities Act.

13 28. This conduct violates A.R.S. § 44-1842.

14 **VI.**

15 **VIOLATION OF A.R.S. § 44-1991**

16 **(Fraud in Connection with the Offer or Sale of Securities)**

17 29. Each of the foregoing paragraphs is incorporated herein by reference.

18 30. In connection with the offer or sale of securities within or from Arizona, RESPONDENTS
19 directly or indirectly: (i) employed a device, scheme or artifice to defraud; (ii) made untrue
20 statements of material fact or omitted to state material facts which were necessary in order to make
21 the statements made not misleading in light of the circumstances under which they were made; and
22 (iii) engaged in transactions, practices or courses of business which operated or would operate as a
23 fraud or deceit upon offerees and investors. RESPONDENTS' conduct includes, but is not limited
24 to, the following:
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1 a) directly or indirectly misrepresenting to offerees and investors that investor
2 funds were to be used for specified operating expenses when in fact funds were used for
3 general operating expenses.

4 b) directly or indirectly misrepresenting to offerees and investors that the
5 securities being offered are exempt from state and federal securities registration provisions
6 when in fact the securities are not eligible for such exemptions;

7 c) directly or indirectly misrepresenting to offerees and investors that the
8 RESPONDENTS were exempt from registration as either salesmen or dealers within the
9 state of Arizona when in fact they were not eligible for such exemption;

10 d) failing to disclose to offerees and investors of the state actions against MEE
11 and of the potential consequences of those orders with respect to their investment; and

12 e) directly or indirectly misrepresenting to offerees and investors information
13 about the qualification of officers and key personnel of the company.

14 31. This conduct violates A.R.S. § 44-1991.

15 32. RESPONDENTS made, participated in or induced the sale or purchase of a security within
16 the meaning of A.R.S. § 44-2003(A). Therefore, RESPONDENTS are jointly and severally liable
17 for the above violations of A.R.S. §44-1841, A.R.S. §44-1842, and A.R.S. §44-1991.

18 **VII.**

19 **VIOLATION OF A.R.S. § 44-1992**

20 **(Filing of Misleading Information with the Commission)**

21 33. Each of the preceding paragraphs are incorporated herein by reference.

22 34. The RESPONDENTS subscribed to or caused to be made an untrue statement of material
23 fact or omitted to state material facts which were necessary in order to make the statements made not
24 misleading in light of the circumstances under which they were made in an application, registration
25
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1 statement, prospectus, financial statement or document required to be filed under the Securities Act
2 or any rule, regulation or order of the Commission.

3 35. This conduct violates A.R.S. § 44-1992.

4 **XII.**

5 **REQUESTED RELIEF**

6 The Division requests that the Commission grant the following relief against
7 RESPONDENTS:

8 1. Order RESPONDENTS to permanently cease and desist from violating the Securities
9 Act pursuant to A.R.S. §44-2032;

10 2. Order RESPONDENTS to take affirmative action to correct the conditions resulting
11 from their acts, practices or transactions, including a requirement to make restitution pursuant to
12 A.R.S. §44-2032;

13 3. Order RESPONDENTS to pay the state of Arizona administrative penalties of up to
14 five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
15 and

16 4. Order any other relief that the Commission deems appropriate.

17 **XIII.**

18 **HEARING OPPORTUNITY**

19 RESPONDENTS may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-
20 306. **If any RESPONDENT requests a hearing, the RESPONDENT must also answer this**
21 **Notice.** A request for hearing must be in writing and received by the Commission within 10 business
22 days after service of this Notice of Opportunity for Hearing. Each RESPONDENT must deliver or
23 mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington,
24 Phoenix, Arizona 85007. A Docket Control cover sheet must accompany the request. A cover sheet
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1 form and instructions may be obtained from Docket Control by calling (602) 542-3477 or on the
2 Commission's Internet web site at www.cc.state.az.us/utility/forms/index.htm.

3 If a request for a hearing is timely made, the Commission shall schedule the hearing to begin
4 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the
5 parties, or ordered by the Commission. If a request for a hearing is not timely made, the Commission
6 may, without a hearing, enter an order against each RESPONDENT granting the relief requested by
7 the Division in this Notice of Opportunity for Hearing.

8 Persons with a disability may request a reasonable accommodation such as a sign language
9 interpreter, as well as request this document in an alternative format, by contacting Yvonne L.
10 McFarlin, Executive Assistant to the Executive Secretary, voice phone number 602/542-3931, e-
11 mail ymcfarlin@cc.state.az.us. Requests should be made as early as possible to allow time to
12 arrange the accommodation.

13 **XIV.**

14 **ANSWER REQUIREMENT**

15 Pursuant to A.A.C. R14-4-305, if any RESPONDENT requests a hearing, RESPONDENT
16 must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket Control,
17 Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30
18 calendar days after the date of service of this Notice of Opportunity for Hearing. A Docket Control
19 cover sheet must accompany the Answer. A cover sheet form and instructions may be obtained
20 from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at
21 www.cc.state.az.us/utility/forms/index.htm.

22 Additionally, RESPONDENT must serve the Answer upon the Division. Pursuant to
23 A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a
24 copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007,
25 addressed to Julie A. Coleman.
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1 The Answer shall contain an admission or denial of each allegation in this Notice and the
2 original signature of each RESPONDENT or RESPONDENT's attorney. A statement of a lack of
3 sufficient knowledge or information shall be considered a denial of an allegation. An allegation
4 not denied shall be considered admitted.

5 When RESPONDENT intends in good faith to deny only a part or a qualification of an
6 allegation, RESPONDENT shall specify that part or qualification of the allegation and shall admit
7 the remainder. RESPONDENT waives any affirmative defense not raised in the answer.

8 The officer presiding over the hearing may grant relief from the requirement to file an
9 Answer for good cause shown.

10 Dated this 24th day of March, 2004.

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13 Matthew Neuber
14 Director of Securities
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